

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 20, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 20, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Harold Warner Jr., Chair; John W. McKay Jr.; Bill Johnson; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Don Anderson; Denise Sherman; Bud Hentzen; Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. Darrell Downing, Vice-Chair was not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; David Barber, Advanced Plans Manager; and Lisa Estrada, Recording Secretary.

1. Approval of July 6, 2006 MAPC minutes.

MOTION: To approve July 6, 2006, MAPC meeting minutes.

MITCHELL moved, **ANDERSON** seconded the motion, and it carried (9-0-1). **DUNLAP** abstained.

❖ **SUBDIVISION ITEMS**

Items 2-1 to Items 2-6 may be taken in one motion unless there are questions or comments.

2. Consideration of Subdivision Committee recommendations from the meeting of July 13, 2006.

2-1. SUB 2006-46: Final Portion of Overall Preliminary Plat -- WATERWALK PHASE 2 ADDITION, located north of Kellogg and west side of Main Street. (Deferred from 6/8/06)

NOTE: This final plat consists of a portion of the overall preliminary plat approved for the site and represents the second phase of development. The street layout is consistent with the preliminary plat with the addition of a new street – Waterwalk Commons. The property boundary was expanded to include Block 1.

The site has been approved for a zone change (PUD 2005-03) to PUD, Planned Unit Development subject to platting.

STAFF COMMENTS:

- A. The applicant shall extend and/or relocate water and sewer to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. **Traffic Engineering** needs to comment on access controls. The plat denotes two openings along Main. **The access controls are approved. The platting text shall state that, "All abutters rights of access to or from Main Street over and across the east line of the Waterwalk Phase 2 Addition are hereby granted to the City of Wichita."**
- E. Reference distance and direction to the monuments used to locate the land described in the certificate of survey.
- F. A separate symbol is needed for different types of monuments set.
- G. **GIS** needs to comment on street names. **The street names are approved.**
- H. The applicant is advised that prior to obtaining a building permit, a PUD adjustment is needed so that the perimeter of the proposed lots matches the perimeters of the PUD parcel boundaries.
- I. All building setback lines denoted on the PUD drawing need to be shown on the plat.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **DUNLAP** seconded the motion, and it carried (11-0).

- 2-2. **SUB 2005-140: One-Step Final Plat -- TERRADYNE WEST ADDITION**, located on the west side of 159th Street East and on the north side of Central. (Deferred from 12/15/05)

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. Petitions are needed for water distribution system and for water supply line extension in 159th E. Petitions are needed for sewer lateral and main assessment.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan needs to be approved prior to MAPC review. Lots 5 and 6 need to be located within Reserve A. Reserve A shall include "Floodway" as a permitted use.**
- E. If any drainage will be directed onto Kansas Turnpike, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- F. **City Engineering** needs to comment on the access controls. The plat denotes one street opening along Central and two street openings along 159th St. East. The final plat tracing shall reference the dedication of access controls in the plat's text. **Access controls are approved.**
- G. Additional right-of-way is needed along Central. The Access Management Regulations requires a 60-ft half-street right-of-way width along urban/rural arterials.
- H. Additional right of way is needed along turnpike for widening of turnpike bridge.
- I. There are inconsistencies between labeling of plat and text with regard to floodway reserve.
- J. **County Engineering** recommends Wichita and Andover resolve which city will annex and maintain 159th E.
- K. In accordance with the Subdivision Regulation the private streets shall be platted as a Reserve and be constructed to the public street standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- L. A covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities.

- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- N. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- O. GIS needs to comment on the plat's street names. GIS has requested Pineview be labeled adjoining Lots 7-13, Block 2. Pinehurst should be replaced with Belle Terre Cir.
- P. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- Q. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- R. In accordance with the Subdivision Regulations, maintenance access easements have been platted for development of the zero lot line dwellings. The easements shall be referenced in the plat's text with the language as follows: "The maintenance access easements as shown are hereby platted for the purpose of pedestrian emergency access, construction, maintenance, the extension of the footing and a 2-foot overhang of the structure on the adjacent lot."
- S. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- BB. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To defer for two weeks.

ALDRICH moved, **HILLMAN** seconded the motion, and it carried (11-0).

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- 2-3. SUB 2006-29: Final Plat -- TURKEY CREEK 3RD ADDITION, located on the north side of Pawnee and on the east side of 135th Street West.

NOTE: This is an unplatted site located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. Petitions are needed for water distribution system and for water supply line extension in Pawnee. Sewer petitions are needed for sewer lateral. The property was in a previous Sanitary Sewer Main Benefit District.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **A flood study is requested from County Engineering. City Engineering has approved the drainage plan subject to conditions. Lots 36 & 64, Blk H should have a min. pad elevation listed on the plat.**
- E. **County Engineering has requested that 135th St. W. be paved adjacent to the plat. Traffic Engineering has requested left turn lanes along Pawnee into Liberty.**
- F. The plat proposes two street openings to both 135th St. West and Pawnee. The final plat shall reference the dedication of access controls in the plat's text. **Access controls are approved.**
- G. **County Public Works** requests that the City of Wichita should annex 135th St. W. and Pawnee.
- H. The plat's text should contain language that owners of the reserves shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair, or maintenance.
- I. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- K. Since a Reserve includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. The design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- L. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's south property line and driving surface for Pawnee.
- M. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- N. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- O. **GIS** needs to comment on the plat's street names. **New street names are needed.**
- P. "Lots, Blocks, Reserves and Streets" shall be referenced in the plat's text.
- Q. Lot 22, Block A needs to be included.
- R. Ownership information needs to be updated for AT&SF line.
- S. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so

that the type of delivery, and the tentative mailbox locations can be determined.

- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- BB. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To defer for two weeks.

ALDRICH moved, **HILLMAN** seconded the motion, and it carried (11-0).

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- 2-4. SUB 2006-54: Final Plat -- STONEBRIDGE COMMERCIAL ADDITION**, located on the southeast corner of 37th Street North and Maize Road.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2006-07) from SF-5, Single-Family Residential to LC, Limited Commercial. The Stonebridge Community Unit Plan (CUP 2006-06, DP-295) was also approved for this site.

STAFF COMMENTS:

- A. In lieu of assessment fees are due for the connections to the existing water lines in Maize and 37th N. A petition is needed for sewer laterals. The property was already in a SS Main Benefit District. **A utility layout is needed. An off-site easement is needed for the sewer extension.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering has approved the drainage plan subject to conditions. The ponds shall be included within a Reserve or Reserves. The proposed stormwater sewer between the ponds shall be located in a public drainage easement. Offsite drainage easements are required.**
- D. In accordance with the CUP, the applicant shall provide a guarantee for center left-turn lanes and right-turn decel lanes to all full movement approaches.
- E. Access controls have been platted in accordance with the CUP approval. The plat proposes two access openings along Maize Road and two openings along 37th St. North. Additional openings may be permitted if in accordance with access management standards.
- F. The access easements shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. The City of Maize and City of Wichita need to work out agreement for annexation of 37th St. N. **An annexation agreement has been established which assigns maintenance responsibilities of 37th St. North to the City of Maize.**
- I. The applicant shall meet with **Traffic Engineering** regarding the need for coordination between the City of Maize and the City of Wichita for paving improvements to 37th St. North. **An annexation agreement has been established which assigns maintenance responsibilities of 37th St. North to the City of Maize.**
- J. Provisions shall be made for ownership and maintenance of any proposed reserves as requested by **City Engineering**. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves

prior to the association taking over those responsibilities.

- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- M. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- P. The plat title and platlor's text should be revised to replace reference to Maize with Wichita.
- Q. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **DUNLAP** seconded the motion, and it carried (11-0).

2-5. **SUB 2006-49: Final Plat -- ROYSE ESTATES ADDITION**, located west of Meridian and south of 69th Street North.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "Small City 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Valley Center area of influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code**

Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.

- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. In accordance with the Urban Fringe Development policy, since this plat is located within the Valley Center 2030 Urban Growth Area, the subdivider shall contact the City of Valley Center, to determine the financial feasibility of connecting the proposed subdivision to the city water system. If financially feasible, then the subdivision shall be connected to the city's water system in accordance with that city's standards.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- F. **Sedgwick County Engineering** requires dedication of a 10-foot street right of way.

The street dedication has been platted as requested.
- G. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of Sedgwick County. **The applicant will be confining the pipeline easement prior to City Council review.**
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- R. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **DUNLAP** seconded the motion, and it carried (11-0).

- 2-6. **SUB 2006-66: One-Step Final Plat -- BOLAIN ADDITION**, located on the east side of Meridian and south of 53rd Street South.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. In lieu of assessment fees are needed for connection to the existing water line in Meridian. A petition is needed for sewer lateral and main assessment.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **City and County Engineering have approved the drainage plan. A 20' drainage easement should be shown on the plat along the south and east property line.**
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes one opening along Meridian. **The access controls are approved.**
- E. "County" needs to be spelled correctly in the plat title.
- F. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- P. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **DUNLAP** seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARINGS**
ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.

3. **Case No.: CON2006-09** - Snook Trust Agreement (James K. Snook); Milo M. Unruh, Jr. and Catherine Rocky (agents) Request Sedgwick County Conditional Use for C & D landfill and extension of CU-403 for rock crusher and continuation of CON2002-12 for sand and gravel extraction, property zoned "LI" Limited Industrial on property described as;

TRACT A: Lot 1, Block 1, The Broad Street Addition to Sedgwick County, Kansas.

TRACT B: A tract of land in the Northeast Quarter of Section 14, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, Described as follows: that part of the Northeast Quarter of said Section 14, lying West of the Missouri Pacific Railroad Right-of-Way (as Established in Deed Book 964, page 39 and in Deed Book 1230, page 340), EXCEPT the North 933.00 feet thereof, and EXCEPT that part taken for the Wichita-Valley Center Floodway Condemned by Case A-30410 and EXCEPT that part Platted as The Broad Street Addition to Sedgwick County, Kansas.

TRACT C: That part of the West half of the Southeast Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas lying east of the Wichita-Valley Center Flood Control Right-of-Way per Condemnation Case A-30410 and west of the Missouri Pacific Railroad Right-of-Way as established by the Deed filed in Book 1230, page 344, TOGETHER with that part of the East half of the Southeast Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas lying west of the Missouri Pacific Railroad Right-of-Way as established by the Deed filed in Book 1230, page 342.

TRACT A: Lot 1, Block 1, The Broad Street Addition to Sedgwick County, Kansas.

TRACT B: A tract of land in the Northeast Quarter of Section 14, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, Described as follows: that part of the Northeast Quarter of said Section 14, lying West of the Missouri Pacific Railroad Right-of-Way (as Established in Deed Book 964, page 39 and in Deed Book 1230, page 340), EXCEPT the North 933.00 feet thereof, and EXCEPT that part taken for the Wichita-Valley Center Floodway Condemned by Case A-30410 and EXCEPT that part Platted as The Broad Street Addition to Sedgwick County, Kansas.

TRACT C: That part of the West half of the Southeast Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas lying east of the Wichita-Valley Center Flood Control Right-of-Way per Condemnation Case A-30410 and west of the Missouri Pacific Railroad Right-of-Way as established by the Deed filed in Book 1230, page 344, TOGETHER with that part of the East half of the Southeast Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas lying west of the Missouri Pacific Railroad Right-of-Way as established by the Deed filed in Book 1230, page 342.

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Background: On June 7, 2006, the Board of Sedgwick County Commissioners (BoCC) reviewed Conditional Use 2006-00009, which requested approval of a construction and demolition landfill and an extension of the deadline to cease rock crushing and recycling activities. The action of the BoCC was to deny the request for the construction and demolition landfill, but to refer the rock crushing and recycling activity question back to the Metropolitan Area Planning Commission (MAPC) for further consideration. At least two of the Commissioners' commented that since most of the MAPCs discussion focused on the landfill, it would be appropriate for the MAPC to have additional discussion regarding the rock crushing and recycling portion of the request.

Currently, CU-403, General Provision J., limits the use of the site to the recycling of rock (concrete and asphalt), and "borrow excavation" or soil mining. Rock crushing and recycling is currently limited to an area that is approximately the northern one-third of the current application area, while soil excavation is permitted on the entire application area. These activities are scheduled to stop 10 years from the date of approval, which was August 28, 1996. In addition to other conditions of approval, CU-403, Borrow Excavation, Item E prohibits the placement of foreign matter, such as rubbish, trees, car bodies, etc., on the site or in the excavation area, and stockpiled recycled material may be stacked up to 25 feet in height.

Initially the applicant was requesting a six-year time extension, to 2012, for the rock crusher and recycling. The applicant is now requesting (1) the deadline for crushing and recycling activity be extended ten years from the current deadline of August 28, 2006, to August 28, 2016, and (2) to delete from CU-403 the current prohibition regarding the recycling and stockpiling of trees.

The applicant would also like to maintain the 25-foot height for stockpiled material, but will commit to having a water truck on-site, dedicated to dust suppression, every day the site is open. He is also willing to eliminate crushing activity on Saturdays.

Analysis: At the earlier hearings, comments dealing with rock crushing mostly dealt with fugitive dust. According to records supplied by the applicant the rock crusher was on the site 14 days in 2004, 42 days in 2005 and four days so far in 2006. Based upon the limited time the crusher was on site, it seems that the actual crushing of rock may play a limited role in the creation of the dust. If that is so, then vehicle traffic around the site and the stockpiled material may be a more likely source of most of the dust. To bolster that supposition, the applicant produced for staff's review copies of several recent years' crusher inspections that state "the crusher was operating in compliance with existing standards" or "that no violations were found." It is difficult for staff to evaluate the dust situation since both the applicant and County Code Enforcement both stated they had not received any complaints regarding the site's operations but most of the neighbors' testimony regarding the crusher dealt with what they identify as excessive dust.

In the original recommendations of approval, General Provision A of CU-403 states "the applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant so as to minimize blowing dust." Since that provision only applied to the roads, and presuming the applicant employed effective dust control measures on the roads, that leaves the stockpiles as the primary dust generator.

The other complicating issue is the site is zoned "LI" Limited Industrial, which permits a number of "by right" uses such as "construction sales and service," "warehousing," "freight terminal," or "vehicle storage" that could generate considerable dust due to vehicle traffic. The only measure of dust control for such "by right" uses is contained in the "LI" district's "environmental performance standards," which states that "uses and activities that are in violation of the Sedgwick County or the City of Wichita Code or that are out of character with ordinary and customary standards and practices for a permitted use to such an extent that the use or activity is obnoxious, offensive or a nuisance due to odor, dust, smoke, noise vibration or other similar causes, are prohibited in the LI district."

Length of operations: The current deadline for crushing and recycling activities to cease is August 28, 2006. The applicant is seeking a ten-year extension to 2016. Conditional Uses are approved subject to the conditions the MAPC and/or the governing body think are appropriate for each individual situation. The applicant has been aware of the deadline since the conditional use was initially approved, and could have been making alternate plans for this site's use and for the crushing equipment. However, as stated at the initial hearing, at the time he filed the application, he had not received any complaints regarding his operations, it would be logical for the applicant to conclude that a request for a time extension would not be met with neighborhood opposition. From his previous zoning requests, the applicant may have been aware the MAPC has a policy of generally being supportive of requests that allow an existing business to continue or expand. But, with the increase in the number of new residential subdivisions, the character of the larger area is beginning to change from an agricultural and industrial district to a mix of uses that now includes or is proposed for substantial urban scale residential uses. It is anticipated that this trend will continue. Given all the residential activity that has and/or is being developed, a ten-year extension may be too long a time given the level of neighborhood objection and the changing character of the larger area.

Tree Recycling: As indicated above, the depositing of trees on the site was specifically prohibited. The applicant would like the ability to have a tub grinder on-site and mulch woody plant materials. Recycling of trees should potentially produce less dust than rock or concrete recycling, but would add additional stockpiles of material that may be viewed as objectionable by neighbors. Piles of mulch would be more of a fire hazard than crushed rock and might provide more of a habitat for vermin than rock or masonry material.

Recommendation: As indicated in the original staff report, the larger area appears to be transitioning from a primarily agricultural/industrial area to an urban scale residential neighborhood. Therefore, based upon the findings stated in the original report, the recommendation is denial of the request for an extension of time for those uses permitted by CU-403 (rock crushing, recycling of rock or concrete and soil excavation); and denial of the request to permit the recycling of trees or woody plant materials.

If the Commission feels that the request is appropriate, the following conditions of approval should be imposed:

1. In addition to uses permitted by the base zoning, the applicant is permitted to operate a rock crusher to recycle rock, asphalt, concrete and other material suitable for a rock crusher, and a tub grinder to recycle trees and other woody material.
2. Within 30 days of final approval, a revised site plan shall be submitted depicting how the various areas of the site are to be used.
3. Uses permitted by the Conditional Use shall cease on August 28, 2011.
4. The applicant shall be responsible for maintaining all roadways in an all-weather condition and shall have a water truck on-site when the site is open for use that is dedicated to the suppression of dust from the site, especially with respect to roads and stockpiled material. The applicant shall apply water or other effective dust retardant to stockpiled materials and any other areas of the site creating dust so as to minimize dust escaping from the site.
5. When operations cease at this location, all materials and equipment permitted by the conditional use shall be removed from the site within 90 days.
6. Within 60 days of approval, the applicant shall obtain all applicable county, state or federal permits or provide proof that applications for such permits have been made and are in the approval process.
7. All on-site water and sewer facilities shall be approved by the agency charged with administering the applicable codes. Any on-site storage of fuels or chemicals shall be in compliance within code requirements, and must be approved by the appropriate regulating agency.
8. The rock crusher shall be operated in compliance within applicable air quality standards.
9. Material stockpiles shall be limited to 15 feet in height. Stockpiled materials shall be stored and handled in a manner to minimize infestation by vermin and to avoid fire hazard.
10. The rock crusher and the tub grinder shall be operated only during the hours of 7:00a.m.-6:30p.m. Monday through Friday. The rock crusher and tub grinder shall not be used on Saturday, Sunday or official Sedgwick County holidays.
11. In addition to any other enforcement measures available, the appropriate code enforcement officer and the director of planner, after a determination that a violation of the conditions of approval has occurred, may render this conditional use null and void and order the uses authorized by this permit to cease.

MITCHELL asked if the time limit for the northern portion were not extended, how would the applicant get to the southern portion until 2012?

MILLER said he assumed that an accommodation would have to be made. He said typically driveways are included as part of a Conditional Use (CON); however, when the CON was granted for the southern property parcel, no consideration was given to the fact that the CON on the northern parcel might expire prior to 2012. He said technically someone could raise the issue that once the CON expires on the northern parcel; the applicant would no longer be allowed to travel across it to do soil excavation on the southern parcel.

MITCHELL asked if permission for a driveway were granted across the northern parcel, how would dust suppression be handled?

MILLER said the current CON required the applicant to perform dust suppression on roadways.

ALDRICH asked if the applicant could apply for a temporary waiver on the tree mulching operation, if the City had another serious ice storm in the future?

MILLER said the applicant could apply for an Administrative Adjustment, which takes about ten days.

GISISK asked how many cases has County Code Enforcement had on the property in the last ten years?

MILLER stated that there was no record of any complaints to County Code Enforcement, as reported at a previous MAPC Meeting. He said the applicant also reported that he had not received any complaints. He added that staff discussed the possibility that people might not have known how to file a complaint.

MILO M. UNRUH, JR., ATTORNEY, ARN, MULLINS, UNRUH, KUHN & WILSON LLP, 300 WEST DOUGLAS said he represented the applicant JAMES P. SNOOK and that they were present to seek extension of the rock crusher portion of Mr. Snook's business. He clarified that they were willing to reduce the time of the requested extension back to May 2012 to make it concurrent with the southern parcel. He clarified that the rock crusher was a portable unit; that it crushes and recycles asphalt and concrete to be used by contractors to build bases for streets and roads in the City and County. He said the purpose of the rock crusher was more than adequately explained when the rock crusher site was approved in 1996. Referring to the staff report at the time of the approval, he said the report stated that the current site was well buffered and already zoned Light Industrial (LI). He noted that the rock crusher had been in operation for ten years without any complaints being submitted to the owner or County Code Enforcement. He added that every year the site must pass an inspection and receive approval from the Kansas Department of Health and Environment (KDHE) to continue operation. He said the site must also comply with Federal Regulations on air quality in order to receive the permit from KDHE.

Referring to a map of the area, he noted that LI zoning was dominant. He said the *2003 Wichita Functional Land Use Guide*, which was revised in May of 2006, specifically said the site was appropriate for the processing industry. He said Planning staff was reluctant to approve the application due to some developing residential areas west of the Wichita Valley Center Floodway, which was over ¼ mile from the site. He said they agreed that some areas were transitioning, but the larger picture lacked changes over the last ten years. He briefly reviewed the buffer surrounding the parcel citing the railroad on the east and the Wichita Valley Center Floodway on the west. He said other uses in the area included residential, commercial and agricultural to the North; agricultural, commercial and industrial to the East; the Floodway and the Sedgwick County Maintenance Yard to the South; and the Floodway, residential, a church and vacant ground to the West. He said they felt the area was clearly dominated by LI Zoning.

He said his client proposed adding an additional step to help reduce the dust issue, but added that there were many dirt roads, plowed agricultural fields and other sources of dust in the area that they had no control over. He said traffic on MacArthur Road, which has gravel shoulders, exceeded over 7,000 vehicles per day. He said truck traffic that enters their facility is less than ½ of 1% of the daily traffic. He concluded by saying that his client was making an effort to address the concerns that were expressed at the last meeting about dust control. He reiterated that the rock crusher was tested annually for air quality and had passed ten years in a row.

JIM SNOOK, BERGKAMP CONSTRUCTION, 3709 S. WEST STREET, responding to a question from the Commission, explained that the rock crusher was an "impact" crusher that used internal spray nozzles to contain dust. He said most of the dust from the site came from the flat road surfaces in the area and driving around the site. He mentioned that a 40-45 mile wind in the area would also cause dust to blow. In addition, he clarified that he did not want to open the site up to the public to compost green waste. He said they wanted the grinder to dispose of material from Bergkamp Construction sites only.

BOB KAPLAN, ATTORNEY, said he was appearing on behalf of Gray Construction. He commented that he did not hear anything today that he had not heard at the previous MAPC meeting and that he believed the record was complete. He said, in his experience, when an application is denied, an applicant generally adjusts or amends the application to make it more palatable to the decision makers and to try to accommodate the problems that were experienced when the application was denied. He said this applicant is not asking for less, but for more. He also commented that he had made several attempts to set up a meeting with the Mr. Snook, his legal counsel and the neighbors. He said the operation of the rock crusher wasn't the real issue; it was the stockpiling and moving around of materials on the site that was causing the dust problem. He said he saw no reason for the Commission to change their original recommendation to deny the application.

BILLY GRAY, GRAY CONSTRUCTION, 204 Woodchuck commented that he has bought material from Mr. Snook, and that there has never been water sprayed in the grinder. He said the rock is ground up; rolled out on belts and piled in piles and the dust just flies. He said he has been to the site with a Global Positioning System (GPS) and that the piles of material have reached 35 feet in height at times. He said the neighbors have had to put up with this issue for ten years, and they are tired of taking it.

PAT YORGENSEN, 7121 W. 35TH STREET SOUTH stated that she was also principal at Oatville Elementary School located at 4335 S. Hoover. She admitted that although they had heard about the rock crusher prior to its establishment; they did not know how to complain about the dust and debris created by the operation. She said they are taking the opportunity to come to the Planning Commission and County Commission to express the negative impact the business is having on their school and neighborhood. She said the area has been changing from a rural area to a more urban area. She said she would like to see the Planning Commission support the neighborhood and growth of the

community to the south and west. She also said she was concerned about the dust that blows around the Oatville playground. She encouraged the Commission to take staff's recommendation and deny the application.

VICTOR LEIS, 4601 S. WEST STREET said he was one of the residents that lived north of the area and has farmed the area all of his life. He said he was concerned about trees and tree debris falling off of the trucks using Broadmoor Street. In addition, he said the rock crusher operation can be seen from the MacArthur Road Bridge and it looks like a whirlwind of a dust storm.

FRANCIS WHITE, 4548 W MacArthur said he takes the direct brunt of the dust windstorm that is created from moving materials around the rock crusher site. He said he has already shown the Commission pictures of the dust at a previous meeting. He mentioned the condition of his residence and how he has to constantly spray wash the outside of his home to remove the dust. He suggested that the Commissioners drive by the site to verify the conditions.

JIM SNOOK, BERGKAMP CONSTRUCTION said there is dust present at the site at times; however, they did provide water trucks. He admitted that there were not perfect, and they did not claim to be. He invited the neighbors and Mr. Gray to come to the site and view the operation. He said he did not feel that the bulldozer pushing the rock into a pile was the cause of most of the dust. He concluded by saying that no one has ever called Bergkamp Construction or him to file a complaint.

SHERMAN asked if the application was denied, what will happen to the Mr. Snook's business?

SNOOK replied that he did not have a direct plan for that; and said he wished he knew.

MOTION: To deny the application.

ANDERSON moved, **BISHOP** seconded the motion, and it carried (9-3-1). **MARNELL, SHERMAN, JOHNSON** opposed. **MCKAY** abstained.

MARNELL said he was voting against the motion because he thought the application was flawed. He mentioned the three separate conditional uses. He added that most of the opposition at the previous meeting was directed towards the landfill and that the rock crusher just got dragged into it because the application was filed at the same time. He said he felt there were adequate provisions to shut the rock crushing operation down if in fact, the rock crushing and moving of the rock is causing the dust problem.

4. **Case No.: ZON2005-18** - John E. Dugan Family Partnership, LP (owner); Robert W. Kaplan, Kaplan, McMillan & Harris (agent), Baughman Company, PA, c/o Terry Smythe (agent) Request Sedgwick County Zone change from "SF-20" Single-family Residential to "LI" Limited Industrial on property described as;

RE: The South Half of the Northeast Quarter of Section 7, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas except the East 60 feet thereof for road. Generally located Approximately 1/2 mile south of 31st Street South on the west side of Maize Road.

BACKGROUND: The applicant requests "LI" Limited Industrial zoning on an 80-acre unplatted site that is currently zoned "SF-20" Single-family Residential. The application area is approximately one-half mile south of 31st Street South on the west side of Maize Road (103rd Street West). The property currently is in agricultural use. Also a salt-water remediation well is located on the site. The applicant has requested the zone change to offer additional large-scale shovel-ready industrial property available in proximity to the airport and K-42.

Two distinct areas surround this site; Maize Road is the boundary between them. West of Maize Road, the land located both to the north and west of the site is zoned SF-20 and is mainly in agricultural or low-density residential use. The land south of the site is being developed as Harvest Ridge Addition, zoned "SF-5" Single-family Residential with 165 single-family lots in the first phase and another 245 approved as part of a preliminary plat on the western edge of the site. As of June 30, 2006, 38 homes were completed or under construction. The unincorporated community of Schulte is located to the southwest of Harvest Ridge Addition. St. Peter the Apostle Catholic Church and school is located in this community.

The area east of Maize Road is zoned LI and is a large industrial area, anchored by the Wichita Mid-Continent Airport and Cessna Aircraft. A freight terminal is located on the northwest and northeast corners of K-42 and Maize Road (103rd Street West) and the remaining land north of K-42 is vacant. The land located south of K-42 area is zoned LI and SF-20 and developed with industrial park types of uses.

The subject tract is one-half mile west of the property owned by Wichita Airport Authority and over one-half mile west of the area labeled 'Airfield, Approach Protection (AO)' of the "Airport Land Use Legend" (Airport Layout Plans for Wichita Mid-Continent Airport, Sheet 16 of 17). The property lies beyond the boundaries of the area identified for acquisition by the Airport. It is within the Airport Airspace Conical Surface with a height limit of 1482.5 feet, which is about 150 feet above the site elevation of 1,340 feet. The Wichita Airport Advisory Board briefly discussed the zone change at a meeting on March 6, 2006, with respect to future airport expansion plans and/or protection plans. The board indicated a preference against homes; schools and churches near airports and a desire for large industrial tracts ready for development, concluding by recommending the City of Wichita purchase the parcel and approval of industrial zoning.

When the application was filed in 2005, it was speculated that a sewage treatment plant was going to occupy a larger portion of the vacant industrial land east of Maize Road. Since that time, the Wichita City Council has selected a different site.

While the applicant has requested LI, a zoning district that allows a wide range of institutional, commercial uses and industrial/manufacturing uses, the Commission may want to consider an alternate zoning district, "IP" Industrial Park. The IP district eliminates some of the institutional and commercial uses that would be objectionable to residents, as well as restricts the

industrial/manufacturing uses to those with higher performance standards and site development standards. Uses allowed in LI but prohibited in IP are listed below. Conditional uses in LI that are prohibited in IP are denoted with an asterisk.

- (1) Institutional: church or place of worship; convalescent care facility; correctional facility; correctional placement residence; day reporting center*; golf course; hospital; school, elementary, middle and high; and
- (2) Commercial: funeral home; hotel or motel; kennel; marine facility, recreational; medical service; microbrewery; night club; nurseries and garden center; parking area, commercial; pawn shop; recreation and entertainment; retail, general; secondhand store; service station; sexually oriented business; tavern and drinking establishment; vehicle and equipment sales, outdoor; vehicle repair; and
- (3) Industrial: asphalt or concrete plant, general*; gas and fuel storage and sales; landfill*; mining or quarrying; oil or gas drilling*; rock crushing*; solid waste incinerator*; transfer station*; vehicle storage yard; wrecking/salvage yard*; and
- (4) Agricultural: agricultural processing; agricultural research; agricultural sales and service; grain storage.

Site development standards in IP are higher for setbacks, storage and screening. Building setbacks in IP are 50 feet for front and street side setbacks, 15 feet for interior and 10 feet for rear; the only setback requirement in LI is 20 feet for front setbacks. Maximum height is 60 feet rather than 80 feet. Outdoor storage is prohibited in the front setback or the required off-street parking or loading spaces, and cannot be visible from adjacent non-elevated street or ground level view of any adjacent lot. Screening of outdoor storage would be most beneficial for the single-family residential dwellings abutting the proposed industrial zoning tract.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: SF-20 Agricultural
SOUTH: SF-5 Single-family residential, church and school
EAST: LI Industrial
WEST: SF-20 Agricultural

PUBLIC SERVICES: Maize Road (103rd Street West) is a two-lane paved county road designated as an urban minor arterial. Traffic counts were approximately 5,000 cars per day in 2005. Projected traffic volumes for 2030 are 14,500 vehicles per day. No future capital improvements projects are programmed for this segment of Maize Road.

Municipal water and sanitary sewer service are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide Map, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* visually portrays this area as appropriate for "urban residential" use and within the "Wichita 2030 urban growth area". Urban development mix comprises predominately urban residential use with concentrations and/or pockets of major institutional uses, local commercial uses and park and open space uses. Residential Locational Guideline 1 recommends low-density residential uses be separated from adverse surrounding uses such as major industrial uses with appropriate buffering including open space, water bodies, abrupt changes in topography, and landscaping treatments.

In contrast, the property east of Maize Road (not included in the application area) is visually portrayed as "employment/industry center", which is defined as centers or concentrations of employment in industrial, manufacturing, service or non-institutional sectors. Land Use-Industrial **Strategy IV.A1** recommends protecting industrial areas "from encroachment or expansion of residential land uses by requiring appropriate buffers for expansion of the residential use when a nuisance situation is likely to be created." The Industrial Locational Guidelines recommend:

- (1) Industrial areas should be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports and as extensions of existing industrial uses.
- (2) Industrial traffic not feed directly into local streets in residential areas.
- (3) Located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas.

The requested site conforms to the industrial locational guidelines for close proximity to major arterials, belt highways, airports and connection to industrial land to the east of Maize and along K-42. The requested site conflicts with the industrial locational guideline of locating industrial uses away from planned residential areas (Harvest Ridge Addition) and sited to prevent traffic through less intensive land use areas by channeling traffic from the proposed site onto Maize Road (103rd Street West) that then must travel south past Harvest Ridge to K-42 or north through developing residential areas to Kellogg.

The Unified Zoning Code (UZC) would require a 25-foot compatibility setback between non-residential and residential development, and screening/buffering next to residential development. The Sedgwick County Access Management Policy would limit the number of access points and regulate the spacing along Maize Road. The requested LI zoning provides fewer site development safeguards to buffer the impact of industrial use on nearby residential use than the IP district.

RECOMMENDATION: The requested change is not in conformance with the "2030 Wichita Functional Land Use Guide Map, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* adopted by the Sedgwick County Board of County Commissioners and by the Wichita City Council. It conflicts with the residential and the industrial locational guidelines for separating and buffering low-density residential use from industrial use, but conforms to the industrial locational guideline of proximity to airports, expressways (K-42) and other industrial uses (land zoned LI east of Maize Road). It would reverse the policy set by the zone change on the abutting tract to the south, ZON2003-00003, when 3.14 acres were changed from LI to SF-

5 to effectuate Harvest Ridge Addition. During the 15-months since this application was filed, additional houses have been constructed in the Harvest Ridge Addition and other residential subdivisions along Maize Road. This increases the sensitivity for ensuring compatibility and buffering for any nonresidential use on Maize Road, and argues for retaining the land in low-density residential uses. Significant neighborhood opposition to industrial zoning was expressed when the case was heard previously (80+ protest petitions filed with County Clerk). Upon receipt of notices for this hearing, several protestors have re-filed and new residents have added their protests.

Based on these factors plus the information available prior to the public hearing, staff recommends the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Two distinct areas surround this site; Maize Road is the boundary between them. West of Maize Road, the land located both to the north and west of the site is zoned SF-20 and is mainly in agricultural or low-density residential use. The land south of the site is being developed as Harvest Ridge Addition, zoned "SF-5" Single-family Residential with 165 single-family lots in the first phase and another 245 approved as part of a preliminary plat on the western edge of the site. As of June 30, 2006, 38 homes were completed or under construction. The unincorporated community of Schulte is located to the southwest of Harvest Ridge Addition. St. Peter the Apostle Catholic Church and school is located in this community. The area east of Maize Road is zoned LI and is a large industrial area, anchored by the Wichita Mid-Continent Airport and Cessna Aircraft. A freight terminal is located on the northwest and northeast corners of K-42 and Maize Road (103rd Street West) and the remaining land north of K-42 is vacant. The land located south of K-42 area is zoned LI and SF-20 and developed with industrial park types of uses. The subject tract is one-half mile west of the property owned by Wichita Airport Authority and over one-half mile west of the area labeled 'Airfield, Approach Protection (AO)' of the "Airport Land Use Legend" (Airport Layout Plans for Wichita Mid-Continent Airport, Sheet 16 of 17). The property lies beyond the boundaries of the area identified for acquisition by the Airport. It is within the Airport Airspace Conical Surface with a height limit of 1482.5 feet, which is about 150 feet above the site elevation of 1,340 feet.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with a single-family use as underway on the adjoining property to the south and planned for the property to the west.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: LI zoning at this location could allow uses that are incompatible with the single-family homes on the south and west boundaries of the site and compromise the viability of the property to the north for residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide Map, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* visually portrays this area as appropriate for "urban residential" use and within the "Wichita 2030 urban growth area". Urban development mix comprises predominately urban residential use with concentrations and/or pockets of major institutional uses, local commercial uses and park and open space uses. Residential Locational Guideline 1 recommends low-density residential uses be separated from adverse surrounding uses such as major industrial uses with appropriate buffering including open space, water bodies, abrupt changes in topography, and landscaping treatments. In contrast, the property east of Maize Road (not included in the application area) is visually portrayed as "employment/industry center", which is defined as centers or concentrations of employment in industrial, manufacturing, service or non-institutional sectors. Land Use-Industrial **Strategy IV.A1** recommends protecting industrial areas "from encroachment or expansion of residential land uses by requiring appropriate buffers for expansion of the residential use when a nuisance situation is likely to be created." The Industrial Locational Guidelines recommend: (1) industrial areas should be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports and as extensions of existing industrial uses, (2) industrial traffic not feed directly into local streets in residential areas, and (3) located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The requested site conforms to the industrial locational guidelines for close proximity to major arterials, belt highways, airports and connection to industrial land to the east of Maize and along K-42. The requested site conflicts with the industrial locational guideline of locating industrial uses away from planned residential areas (Harvest Ridge Addition) and sited to prevent traffic through less intensive land use areas by channeling traffic from the proposed site onto Maize Road (103rd Street West) that then must travel south past Harvest Ridge to K-42 or north through developing residential areas to Kellogg.
5. Impact of the proposed development on community facilities: The requested zone change would introduce an unknown amount of industrial land use and traffic.
6. Opposition or support of neighborhood residents: Significant neighborhood opposition to industrial zoning was expressed when the case was heard previously (80+ protest petitions filed with County Clerk). Upon receipt of notices for this hearing, several protestors have re-filed and new residents have added their protests.

However, should MAPC choose to pursue a zone change to industrial zoning, Staff recommends that the zone change be APPROVED TO IP INDUSTRIAL PARK SUBJECT TO A PROTECTIVE OVERLAY WITH THE FOLLOWING CONDITIONS:

1. A building setback of 100 feet shall be provided on the north, south and east property line.
2. The following uses shall be prohibited: auditorium or stadium; animal care, limited and general; convenience store; restaurants with drive-through or in-car service and with more than 2,000 square feet gross floor area; tattooing and body piercing; wireless communication facility.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: See previous findings
2. The suitability of the subject property for the uses to which it has been restricted: See previous findings

3. Extent to which removal of the restrictions will detrimentally affect nearby property: LI zoning at this location could allow uses that are incompatible with the single-family homes on the south and west boundaries of the site and compromise the viability of the property to the north for residential development. The change to IP accompanied by the recommended protective overlay lessens this impact by reducing the nature and variety of institutional, commercial and industrial uses permitted. Incompatible industrial uses are prohibited; screening and buffering is improved to provide more physical separation. Eliminating some institutional and commercial uses avoids the hodge-podge nature of unrestricted industrial zoning where high intensity retail uses are found side-by-side with industrial/manufacturing establishments. This hodge-podge tends to drive away large industrial park types of users, which was offered as the purpose for rezoning this tract, that of having large-scale shovel-ready industrial property available in proximity to the airport and K-42.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: See previous findings
5. Impact of the proposed development on community facilities: See previous findings
6. Opposition or support of neighborhood residents: Significant neighborhood opposition to industrial zoning was expressed when the case was heard previously in 2005 (80+ protest petitions filed with County Clerk). Upon receipt of notices for this hearing, several protestors have re-filed and new residents have added their protests. These protestors have indicated opposition to the change and requested the residential zoning remain.

DONNA GOLTRY Planning staff presented the staff report. She commented that the applicant had provided three handouts at today's meeting, which were a "projected sightline artist rendering", a "Limited Industrial Zoning Examples" booklet, and a booklet of additional information, background information, and correspondence. In addition, she referred the Commission to a typographical error on Page 6 of the Staff Report under the alternative #1 recommendation. She said under the building setback discussion "east" should be "west".

BOB KAPLAN, Attorney said he was appearing with TERRY SMYTHE, BAUGHMAN COMPANY on behalf of the Dugan Family Partnership. He said there were two issues of major concern. The first was protection and expansion of the airport; and the second was protection of those residents currently living in the area. He said the airport issue involves the preservation of land for future expansion of services and related industries, including the possibility of inter-modal and multi-modal facilities. He said he felt the city was missing a big opportunity if they did not look at containerized cargo revenue and inter-modal services. He commented that the Greater Wichita Economic Development Coalition had done due diligence on the 80 acre parcel, and added that McCallum Sweeney Consulting, the consultant for the project, was preparing a report for the Kansas Department of Commerce on the site. He referred the Commission to correspondence from Victor White to Mayor Mayans regarding land acquisition west of Mid-Continent Airport. He said it was also recommended that the land west of the Airport be acquired for industrial use. He concluded by referring to the case where the City of Louisville, was forced to purchase 1,591 homes and displace over 4,000 people in order to complete a much needed airport expansion.

TERRY SMYTHE, BAUGHMAN COMPANY referred the Commission to the booklet that contained "Limited Industrial Zoning Examples", which gave examples of industrial zoning throughout the City that were adjacent to single family zoning. He mentioned the setback requirement of 100 feet and said once the property is platted; Baughman Co. would know the type and location of buildings to be constructed at the site. He referred to the detention pond on the drawing, which would run along the entire south side of the property. He mentioned that Baughman Co. had been involved in the platting and subdividing of the Harvest Ridge Plat to the south of this parcel and that the owner/developer was aware of the proposed LI zoning request.

ALDRICH asked if the application were approved, would the applicant have objections to rezoning to Industrial Park (IP)?

SMYTHE said they had no objection to rezoning to IP. He also responded to several questions concerning the artist's rendering of the sightlines, commenting that the building in the lower drawing was 65 feet in height; while the building in the upper drawing was 35 feet.

BISHOP expressed concern about trucks going to and from the property through the residential neighborhood.

SMYTHE said the truck traffic would most probably use K-42.

MCKAY asked that since Mr. Dugan owned everything west of the airport, why was this particular lot picked?

SMYTHE explained that most of the property from Maize Road east was already committed or under contract to be purchased by the City.

MCKAY asked if Baughman had contacted any of the people who protested the rezoning in 2005.

SMYTHE replied that they had not contacted anyone.

CHANGE TAPE TO 2 SIDE A

ERIC W. LAMP, 11101 W. 31st STREET SOUTH said he has become more appreciative of the planning process, how important zoning is, and how zoning impacts people. He thanked the Commission for the opportunity to speak on the issue and also thanked MAPD staff for their unbiased recommendation to deny the application. He suggested that if the applicant were truly interested in what the surrounding residents thought, they would delay the application until Harvest Ridge was fully developed. He said he was also concerned about truck traffic traveling north along Maize Road. He added that he felt the property was already "boxed in" with residential. And, that Mr. Kaplan was not representing the Airport, but rather a private citizen who was interested in developing his property. He said he wanted to go on record as protesting the application.

DEBBIE THOME, 203 S. CEDAR PARK CIRCLE said she supported the staff report to deny the application. She said she used to live in the area on Maize Road, and that is was a very busy street; that was why she moved. She said they have no assurance of how the airport will develop the land. She said she feels that the Commission should consider the residents that live there.

NORMA JEAN THOME 12214 W. McArthur said she supported the staff recommendation to deny the application.

BOB KAPLAN said he thought protection of the neighborhood was important and that he believed it could be accommodated. He said if the application is approved, he would like to invite Dr. Lamb, Ms. Thome and other interested parties to participate in the planning process and design of the retention pond, berming and landscaping. He said he would be more than willing to meet with the group opposing the application. He concluded by explaining that Mr. Dugan was not going to develop the property, but hold it for airport development.

There was brief discussion concerning K-42 being an "industrial corridor"; property ownership surrounding the parcel; and whether the developer of Harvest Ridge (Paul Kelsey) or the people who purchased homes in the development were aware that K-42 was considered an "industrial corridor".

SMYTHE commented that as a major client, they inform Mr. Kelsey of all decisions that will affect his property.

ALDRICH explained that as Vice President of Windy City Railway services, he has seen a tremendous increase in inter-modal transportation needs over the last five years. He said it is a multi billion-dollar industry, and that one of Wichita's long-range transportation goals was to be a hub; not only for air and rail transportation, but other forms of transportation. He said the economic impact to the City and surrounding community was priceless and, therefore, he was supporting the zone change to IP.

MOTION: Approve with zone change to Industrial Park (with the protective overlay).

ALDRICH moved, **ANDERSON** seconded the motion.

GISICK asked staff several questions concerning the Industrial Park protective overlay, particularly with regard to waterfowl.

GOLTRY said she thought it was appropriate to bring up the issue, so that it can be studied more closely during the platting process (wet detention versus dry detention).

DUNLAP commented that activity was being denied on the east side of the airport, where there are already platted cul-de-sacs from an existing taxiway. Regardless, he said he supported the application. He mentioned that the Union Pacific Railroad has offered to build an inter-modal terminal in Gardner, Kansas and expand that to connect to the old Gardner airbase. He said there were also plans to move the I-35 corridor and that Wichita may be left out of this important development.

MARNELL said he has served on the Airport Board, and that they would have already purchased the property surrounding the airport, if they had the funding.

BISHOP commented that she was reluctantly going to support the motion. She said K-42 was definitely an industrial corridor and that she did not believe it was appropriate for residential development. She said IP was probably the best compromise.

WARNER called the question.

SCHLEGEL asked if the motion included the protective overlay?

ALRICH said that was correct.

MOTION CARRIED 13-0.

5. **Case No.:** CUP2006-30 DP 49 Amendment #6 to DP49 – Royal I LLC Community Unit Plan – Royal I, LLC c/o Occidental Management, Gary Oborny (owner); Ron's sign Co. c/o John Saindon (agent) on property described;

That part of Lot One (1), Dean-Rupert Third Addition, Wichita, Sedgwick County, Kansas, described as beginning at the northern-most N.W. Corner thereof; thence S 89 49' 45" E, along the north line of said Lot One (1), 161.52 feet; thence S 00 (10' 15" W, 88.02 feet; thence N 89 (49' 45" W, 5.07 feet; thence S 00 (10' 15" W, 10.14 feet; thence N 89 (49' 45" W, 10.88 feet; thence S 00 (10' 15" W, 72.84 feet to the northern-most south line of said Lot One (1); thence N 89 (49' 45" W, 145.05 feet to a lot corner of said Lot One (1), being 171 feet south of the place of beginning; thence N 00 E, 171 feet to the place of beginning. Generally located South of Central Avenue, on the east side of Rock Road.

BACKGROUND: The applicant proposes to reduce sign spacing requirements for DP-49 Cobblestone Alley Community Unit Plan. DP-49 is a 7.7-acre CUP with seven parcels located on the southeast corner of Central and Rock Road. The CUP has an irregular boundary with discontinuous frontage along Rock Road. A bank is located on the corner tract that is excluded from the CUP. Next, two commercial buildings (a restaurant and a furniture store) are located south of the bank and are part of the CUP. Moving southward, a Westar substation and another commercial building with a rug store and a restaurant are excluded from the CUP. Moving farther south to the site of this request, a retail/office building, a strip center and a restaurant (Freddy's) comprise the remaining 290 feet of frontage on Rock Road within DP-49.

Currently the strip center is undergoing a major renovation after the loss of one of its major tenants, Cinemas East. Another anchor tenant, Bicycle Peddler, remains but the rest of the center is being leased to several new retail/personal service types of businesses. Signage for Bicycle Peddler and two previous tenants is affixed to the existing Freddy's sign, but the intention is to remove the three tenant panels from the Freddy's sign and reposition it on the new sign centered on the renovated strip center.

"Exhibit A" shows the proposed monument style sign. Total sign height is less than 20 feet in height and sign face area is approximately 130 square feet. The sign would be positioned between two existing signs at a location about 500 feet south of Rock Road.

The maximum number of sign locations on the Rock Road frontage would be four per Wichita Sign Code, based on the spacing of 150 feet apart per sign. The Wichita Sign Code does not authorize requesting an increase in sign locations as an administrative action. It requires a variance, or within a CUP, can be allowed by a CUP amendment. In contrast, while reducing the separation between two signs to as low as 100 feet could be done by administrative action (Wichita Sign Code 24.04.251) so long as it does not increase the total number of sign locations, it is simpler to include it in this amendment request. The proposed ground signage is otherwise in conformance to the Wichita Sign Code.

The property is located on a commercially developed strip of Rock Road. A Dillon's and large restaurant are located to the east on property zoned LC. The properties to north, northwest and south are zoned LC and developed with a variety of restaurants, retail shops, and other commercial uses. The property to the east is LC and an apartment building, buffered by a creek. Residential use on property zoned "SF-5" Single-family Residential is located east of the creek.

CASE HISTORY: The property is platted as Dean-Rupert Third Addition, recorded May 1, 1987. DP-49 Cobblestone Alley was originally approved February 20, 1973, and has been amended four times previously.

ADJACENT ZONING AND LAND USE:

NORTH: LC	Retail, office, restaurant, bank
SOUTH: LC	Retail, office, restaurant
EAST: LC, SF-5	Apartments, creek, single-family residential
WEST: LC	Grocery store, restaurant, convenience store, shopping center

PUBLIC SERVICES: The proposed amendment pertains only to signage regulations and has no impact on public services.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. The current signage followed this strategy more rigorously with the shared signage on one pylon sign by the strip center and the restaurant, whereas the proposed amendment will allow a new sign to be shared by the tenants in the strip center and a separate sign for the out parcel. However, the current sign is large and ungainly in appearance and does not have sufficient room to add two additional tenant panels. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guidelines of character of the development appropriate to the neighborhood and to minimize any diminution to surrounding property. The proposed sign will be typical of the signage already in place along Rock Road and should not significantly affect the surrounding property.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED to allow one additional ground sign on Parcel B, Tract 1 substantially in conformance with Exhibit "A" and to reduce the spacing between signs on Parcel B, Tract 1 with Parcel B, Tract 2 and with Parcel B, Tract 3 to no more than 100 feet.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located on a commercially developed strip of Rock Road. A Dillon's and large restaurant are located to the east on property zoned LC. The property to north, northwest and south is zoned LC and developed with a variety of restaurants, retail shops, and other commercial uses. The property to the east is LC and an apartment building, buffered by a creek. Residential use on property zoned "SF-5" Single-family Residential is located to the east of the creek.
2. The suitability of the subject property for the uses to which it has been restricted: The existing signs nearest the strip center are not designed to allow a sufficient number of additional tenant panels. The applicant has documented to staff that he has attempted to have the adjacent parcel owners to use joint signage and/or redesign their signs and was unable to get their consent. The applicant will be refurbishing the adjacent sign to the south when the tenant panels are removed to improve the appearance and compatibility of the signs.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The sign would not be significantly different in spacing than other ground signs along Rock Road, so should not be out of character with the existing development pattern.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. The current signage followed this strategy more rigorously with the shared signage on one pylon sign by the strip center and the restaurant, whereas the proposed amendment will allow a new sign to be shared by the tenants in the strip center and a separate sign for the out parcel. However, the current sign is large and ungainly in appearance and does not have sufficient room to add two additional tenant panels. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guidelines of character of the development appropriate to the neighborhood and to minimize any diminution to surrounding property. The proposed sign will be typical of the signage already in place along Rock Road and should not significantly affect the surrounding property.

MOTION: To approve.

HILLMAN moved, **HENTZEN** seconded the motion, and it carried (13-0).

6. **Case No.: CON2006-27** - Hawk Enterprises, Inc. c/o Richard Doughty (owner); T-Mobile USA c/o George Wyrick (applicant); Ferris Consulting c/o Greg Ferris (agent) Request Conditional use for a 150-foot wireless communication facility on property described as;

In Lot 1, Conner Third Addition, a subdivision in Wichita, Sedgwick County, Kansas, beginning at the Southeast Corner of Lot 1, Conner Third Addition, the point of origin; go southwest along the South Lot line of Lot 1, 100 feet; then North 57 feet; then East 80 feet to the East property line of Lot; then Southeast 8 feet to the point of origin. Generally located Southeast corner of 29th Street and Porter (1325 W. 29th St. N.).

BACKGROUND: The applicant is seeking a conditional use to permit the construction of a 150-foot monopole wireless facility for use by T-Mobile USA. The proposed site is zoned GC General Commercial and at the southeast corner of 29th Street North and North Porter Avenue, adjacent to the Little Arkansas River.

The character of the surrounding area is largely residential in nature, with various commercial and office uses scattered along 29th Street. The application area (see attached site plan) is approximately 0.40 acres located on a wedge-shaped lot bounded by 29th Street to the north, Porter Avenue to the west and single-family residential development to the south. The site is well screened from surrounding properties, as the property is heavily wooded. However, the proposed tower would be located within approximately 25 feet of 29th Street right-of-way and adjacent single-family lots. Therefore, approval of this request would also require a waiver of the compatibility setback.

CASE HISTORY: The application area is located within Lot 1 of Conner 3rd Addition recorded September 19, 1985. The subject parcel was rezoned from AA One-family Residential and LC Light Commercial to its current GC General Commercial designation on March 6, 1984. This application was originally submitted as an administrative permit (BZA2006-00027) and was denied (follow-up letter attached). In accordance with Section III-D.g(4) of the Unified Zoning Code, this conditional use application is an appeal of the administrative denial.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Retail/Office
SOUTH:	SF-5	Single-family residential
EAST:	NA	Little Arkansas River
WEST:	LC; SF-5	Commercial; Single-family residential

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to 29th Street, which is a three-lane minor arterial with a traffic count of approximately 6,300 vehicles daily.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting.

While the proposed site is in a wooded area, in staff's opinion, the applicant has not provided sufficient justification as to why the existing towers in the vicinity cannot be used to satisfy service needs. Staff has not received any structural analysis on the AM towers to the southeast justifying their exclusion. At the very least, the applicant has not shown why they could not use an existing tower in conjunction with a shorter new tower to minimize the negative impacts. Furthermore, given the adjacency to the scenic Little Arkansas River and single-family residential development, the proposal does not preserve the existing character of the area. Finally, it is worth mentioning that there has been significant neighborhood opposition to this application, including a petition signed by 11 neighbors and an e-mail correspondence in opposition to the proposal.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the conditional use application and the request to waive the compatibility setback be DENIED.

The recommendation for denial of the waiver of the compatibility setback is based upon the following findings, required by Section V-1.6. of the Unified Zoning Code as set out below:

1. **Impact on safety and convenience of vehicular and pedestrian circulation:** The proposed site is located on a wedge-shaped lot approximately 60 feet in width at the proposed location of the tower. Waiving the required setback could have serious impact on vehicular and pedestrian circulation in the event of structural failure.
2. **Impact on existing uses in surrounding areas:** The proposed facility is located approximately 25 feet from the abutting single-family lot and increases the intensity of use on the existing lot. This indicates a negative impact on the surrounding single-family uses.
3. **Compatibility with existing or permitted uses on abutting sites:** The proposed facility is not compatible with the single-family residential uses abutting the subject property and is not visually compatible with the adjacent scenic Little Arkansas River.

4. Effect on public health, safety or welfare: Given the proximity to the 29th Street right-of-way and neighboring single-family uses, approval of this request would have a negative effect on public health, safety and welfare.

The recommendation for denial of the conditional use permit is based on the following findings:

1. The zoning, uses and character of the neighborhood: Given the adjacency to the scenic Little Arkansas River and single-family residential development, the proposal does not preserve the existing character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The request requires waiver of the 150-foot compatibility setback. Given the site's proximity/adjacency to the 29th Street right-of-way and single-family residential development, the site is not suitable for the proposed conditional use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: There will likely be negative visual impacts upon surrounding properties. This will particularly impact the view from the Little Arkansas River and the neighboring residential properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: While cellular telephones are generally beneficial to the public health, safety and welfare, the facts of this case outweigh those general benefits. The proximity of the proposed conditional use to public right-of-way and residential poses potential safety risks to adjacent property, particularly in the event of structural failure. This fact, combined with the possibility of other placement options available to the applicant, does not provide insurmountable loss or hardship for the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The application and proposed conditional use do not fully conform to the Comprehensive Plan, the Wireless Master Plan and compatibility setback requirements of the Unified Zoning Code.

DALE MILLER Planning staff presented the staff report.

ALDRICH out @ 3:41

WARNER asked if the existing tower at Amidon and Chisholm Creek served T-Mobile's purpose, why do they want to build another tower?

MILLER said they were trying to provide total "in-building" coverage.

There was brief discussion concerning AM towers and how it was inappropriate to have cellular antennas on an AM tower.

GREG FERRIS representing T-MOBILE USA said he was surprised that staff recommended denial of the application, since he felt that this was an excellent site for a cell tower. He said when T-Mobile wants to expand coverage the first thing they look for is an existing tower, a tall building or a raw land site (that is in compliance with the City's wireless plan), in that order. He mentioned that the City's Wireless Plan specifies locations that are most suitable for tower location. He provided the Commission a picture of a tower that T-Mobile was constructing in Broken Arrow, Oklahoma. He said they could build towers at 120 feet, as opposed to 150 feet, and still meet their minimum criteria for coverage and capacity. He suggested that the Commission might be more inclined to approve the 120-foot tower. He said the proposed tower location was zoned General Commercial, mixed use, was in a wooded area, and the majority of the tower would be hidden from the roadway and property owners.

GISICK asked how many companies could utilize the tower besides T-Mobile?

FERRIS commented that the plan requires three carriers. He briefly explained the color-coded map, which indicated levels of coverage. He said their goal was to provide "in-building" coverage since many people are now getting rid of landlines and using cell phones only.

MOTION: Approve 150-foot tower at this location.

MITCHELL moved, **ANDERSON** seconded the motion, and it carried (11-1). **BISHOP** opposed.

7. Case No.: ZON2006-15 – Kansas Home Source, LLC c/o Robert Redmon and Cook Construction, LLC c/o Larry Cook Request Zone change from "GO" General Office and "TF-3" Two-family Residential to "LC" Limited Commercial on property described as;

Lots 5 and 6 except that part taken for Condemnation Case CC-66769 and except the West 20 feet for street, on Seneca Street, West Park Gardens Addition, Sedgwick County, Kansas. Generally located Approximately 1/3 mile south of Harry Street, on the northeast side of the Seneca Avenue – Dora Avenue intersection.

BACKGROUND: The applicants request a zone change from "TF-3" Duplex Residential and "GO" General Office to "LC" Limited Commercial on the site: Lots 5, 6 & 7, West Park Gardens Addition. The lots are narrow and deep; 73-feet (x) 389.8-398-56-feet. The applicants' recently removed three vacant and condemned single-family residences from the site (per GIS; built 1910, 1931, 1940), which is now vacant. The site is located between a salvage yard on its east side and Seneca Avenue on its west side, almost mid-mile between Harry Street and Pawnee Avenue.

As noted, development abutting the east side of the site include what was railroad right-of-way (ROW), which has been leased out (by the City) to a Wichita Iron and Metal, a salvage yard, on a month to month lease: the lease is projected to be long term, as the salvage yard has been at this location since the 1980s. The salvage yard is zoned "LI" Limited Industrial, except for a "TF-3" zoned 50-foot buffer between it and the site. The City's Public Works' Central Maintenance facility ("LI") finishes off development east of the site up to Meridian Avenue. Abutting the south of the site is a 1.28-acre "LC" zoned lot (Z-2859, "A" Two-family Residential to "LC" Light Commercial, 1988) developed as single-family residential. South of this "LC" zoned property and between a "LC" zoned saving and loan business (Z-3213, "GO" General Office to "LC", 1997), there are at least seven (7) "TF-3" zoned single-family residences, most of them all brick, built between 1930-1940. Approval of Z-2859 and Z-3213 included dedication of 20-feet of street ROW. Beginning north of the subject site there are two vacant lots zoned "TF-3" and a single-family residence (built 1922, wood siding) zoned "TF-3". Beyond these three properties, the east side of Seneca is almost stripped out up to Harry Street with mostly "LC" zoning, some "GO" and "NR" Neighborhood Retail and a "GC" General Commercial zoned property.

Properties west of the site, across Seneca, include Alley Park (a city park), are zoned "MF-29" Multi-family Residential, and the "LC" zoned Seneca Bowl, free standing retail and strip retail. Alley Park is directly opposite the site and has a municipal swimming pool, community facilities, ball fields and play ground. Stanley Elementary School ("MF-29") abuts the northwest corner of the 15.33-acre park. North of the park, across Esthner Avenue, is a neighborhood of mostly single-family residences zoned "MF-29".

Any development on the subject property will be required to meet access management regulations, all compatibility setback, height, noise and design standards, the Unified Zoning Code's (UZY) landscaping, screening and any other applicable codes and development standards.

CASE HISTORY: The subject properties are platted as Lots 5, 6 and 7, the West Park Gardens Addition. The West Park Gardens Addition was recorded with the Register of Deeds October 27, 1923. Lot 6 was rezoned (Z-2165) from "A" Two-family Residential to "BB" Office in 1979, with the dedication of 20-feet of street ROW. The 1996 UZY changed "BB" to "GO" and "AA" to "TF-3". The site and the area around Alley Park were annexed into the City in 1951. The District Advisory Board (DAB IV) unanimously approved the requested zone change and Protective Overlay, as recommended by Planning, at their July 5, 2006 meeting. No one spoke against the request at the meeting.

ADJACENT ZONING AND LAND USE:

NORTH: "TF-3" "GO"	Single-family residences, vacant lots, office
SOUTH: "LC", "TF-3"	Single-family residences, savings and loan, self-storage
WEST: "MF-29", "LC"	Public Park, single-family residences, bowling alley, retail
EAST: "LI" "TF-3"	Buffer strip, salvage yard, Public Works Maintenance Yard

PUBLIC SERVICES: The site has access to Seneca Avenue. Seneca is a four-lane arterial along the site. Current traffic volumes along this portion of Seneca are approximately 20,548-20,965 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on this portion of Seneca will increase to approximately 22,000 vehicles per day. Water, sewer and all other utilities are available. There are no CIPs scheduled for this section of Seneca.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan classified the site as "urban residential". The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request, with the implementation of the UZY's compatibility standards, current access management standards, the UZY's required landscaping and screening, the other provisions of a proposed protective overlay and any other applicable codes and development standards, mostly conforms to the Land Use Guide and the Commercial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Although the 2030 Wichita Functional Land Use Guide of the Comprehensive Plan classified the site as "urban residential", the proposed zoning more closely reflects an already established trend towards nonresidential rezoning and development along this east side of Seneca. From 1971 to 1997 this eastern section of Seneca (site included), across from Alley Park and extending a block north (Merton Court) and south (Jewell Street) of the park, has had at least ten (10) approved rezoning cases from, Single-family Residential, Two-family Residential, or office to some type of office, retail or commercial zoning, with some of these including use exceptions and covenants. When the site and the areas north, south, and west of it were annexed into the City in 1951, they were identified as some type of two-family or multi-family residential zoning, even though the site's immediate area was abutting an already industrial zoned area on its east side. This abutting eastern area was annexed into the City between 1940 and 1950. Since that time the industrial uses east of the site have remained and attracted reinvestment (recent improvements to the City's Public Works Central Maintenance facility), while the residential uses between the industrial properties (east) and Seneca (west) have declined and have slowly began to be replaced with nonresidential zoning and uses. Those most recent nonresidential developments include a savings and loans (Z-3213, "LC", 1997) and self-storage (Z-2604, "BB" Office, 1984, BZA 53-84, BZA 54-88, built 1984). The most recent residential development along this section (between the abutting eastern industrial development, abutting western Seneca frontage, between Merton to the north and Jewell to the south) is the single-family residences built in the mid 1950s in the Fulgroat Addition (recorded July 6, 1954) and the Seneca Haven Addition (recorded February 29, 1957). The applicant has proposed a Protective Overlay ("PO") that would restrict "LC" uses on the site. The proposed "PO" generally recognizes the site's close proximity to the 15.33-acre Alley Park, Stanley Elementary School, the residential development around them and the declining residential value of the site and its area between the western abutting Seneca and the eastern abutting "LI" zoning and its industrial development.

Based upon information available prior to the public hearings, Staff recommends APPROVAL of the "LC" zoning and the following provisions of Protective Overlay # 175:

1. Prohibited uses on the site include limited and general correctional placement residences, limited and general day care, limited, private and public recycling collection stations, reverse vending machine, bed and breakfast inn, car washes, convenience stores, hotels/motels, recreational marine facility, night club, commercial parking area, indoor recreation and

indoor entertainment, second hand store, service station, tavern and drinking establishment, vehicle repair limited, asphalt or concrete plant, outdoor storage and pawn shops. As defined in the UZC, a pawnshop is an establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker and the sale of such property. A "quick cash" (a recently introduced business in the community) business that loans money with title to homes, automobiles or other property as collateral to secure the loan and does not engage in deposit banking is considered a pawn shop and would be a prohibited use, per the PO.

2. On site pole lights shall be no higher than 14-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning. No pole lights shall be located within the required compatibility setbacks.
3. A restrictive covenant binding and tying the properties together as one site/use will be recorded with the Register of Deeds. The restrictive covenant will include signage, cross lot access (including cross lot access to the abutting north and south properties), drainage, landscaping and parking for the site.
4. Dedication of access control onto Seneca Avenue, per approval of the Traffic Engineer. Lots 5, 6, and 7, West Park Gardens Addition, will be treated as one site and conform to the current access management regulations.
5. Signage on the site will be as allowed in the "LC" zoning district, but be only a monument type of signage. No building signage on its north or south sides of the building.
6. Dedication of 20-feet of right-of-way along Lots 5 and 7's Seneca Avenue's frontage.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Development on the west side of Seneca Avenue is distinguished by what is south and north of the "MF-29" zoned City Park. South of the park there is "LC" zoned development including offices, a bowling alley, restaurants and retail. North of the park there is less than a block of "MF-29" zoned single-family residential development holding out from the nonresidential stripping out of Seneca, above and below Harry Street. The nonresidential zoning is mostly "LC". Development on the east side of Seneca (between Merton Court, next block north of the site, and Jewell Street, next block south of the site) is in a gradual transition from single-family residential development to nonresidential development, ranging from office, retail and including a self storage site. This side of Seneca is also being stripped out, with the added influence on the area of a large area of "LI" zoning and development abutting it and extending east to the Arkansas River. The site and the abutting areas (as above defined) north and south of it, form a narrow "waist" of properties shaped by Seneca (west) and the "LI" zoned area to its east. The "LI" zoning follows the contour of McLean Boulevard, which in turn follows the contour of the Arkansas River. Within this "waist" of properties residential development is in decline.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "TF-3" Duplex Residential. The applicants' recently removed three vacant and condemned single-family residences from the site (per GIS; built 1910, 1931, 1940), which is now vacant. The site's long time immediate proximity to "LI" zoning and its industrial development has gradually eroded its value as a site for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed "LC" zoning with the proposed "PO" would allow similar types of development as already established north and south of the area. The implementation of the provisions of the Protective Overlay and the standards of the Unified Zoning Code over the whole site would limit the adverse impact on the adjacent residential developments and the park.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "urban residential" development, but failed to recognize its declining residential value, due to its abutting location to long time industrial development and zoning. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. With the provisions of the proposed Protective Overlay, the site is largely in conformance to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Community facilities should be minimally impacted.

MOTION: To approve.

HILLMAN moved, **HENTZEN** seconded the motion, and it carried (12-0).

8. **Case No.: DER 2006-11** - Request Review zoning area of influence boundary

DALE MILLER Planning staff presented the report. He said staff was requesting that the Commission direct them to conduct a public hearing on August 17, 2006, to review proposals to modify the existing zoning area of influence boundaries that are used for small cities to determine when they hear zoning cases that are in the unincorporated areas of Sedgwick County.

MOTION: Direct staff to hold a public hearing on August 17, 2006.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (12-0).

The Metropolitan Area Planning Department informally adjourned at 4:01 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)